

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

FILED
U.S. DISTRICT COURT
MASSACHUSETTS
OFFICE

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Joseph P. Schmitt, pro se.,)
Plaintiff,)
v.)
Robert Murphy, et al.,)
Defendants.)

U.S. DISTRICT COURT
C.A. No. 05-11348-NG OF MASS
LEAD DOCKET NUMBER

Joseph P. Schmitt, pro se.,)
Plaintiff,)
v.)
Robert D. Clauss, et al.,)
Defendants.)

C.A. No. 05-11603-NG

(PLAINTIFF'S OPPOSITION TO COURT'S ORDER)
(OF CONSOLIDATION)

Now comes the pro se Plaintiff and respectfully opposes the Court's October 12, 2006 ORDER OF CONSOLIDATION.

As grounds thereof, Plaintiff states the following.

1. C.A. No 05-11348-NG is an action involving mail issues, specifically the illegally confiscated \$800.00 money order which was mailed to the Plaintiff by a citizen of the Commonwealth.
2. C.A. No. 05-11603-NG is an action involving the confiscation of Plaintiff's personal property during a cell search during which time said Plaintiff was a temporary civil detainee.
3. Both cases have a number of same defendants out of necessity, however, Plaintiff states that there is a significant difference in each case issue to stand alone as separate actions, as he has filed them.
4. The legal grounds for prosecuting each case are significantly different.
5. Being a pro se litigant facing trained and trial experienced counsel, places Plaintiff on an unlevel ground as is. Forcing said

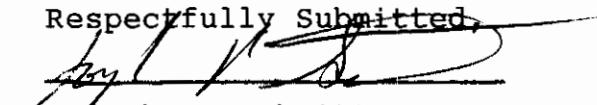
to prosecute both cases at once is judicially unfair and clearly favors the experienced counsel of the defendants for both cases.

WHEREFORE, Plaintiff hereby requests the court vacate its ORDER OF consolidation in the above captioned cases and allows the pro se Plaintiff to litigate and prosecute each case separately as they have been filed in this court on separate dates.

In the alternative, Plaintiff moves this Court to appoint Counsel to represent said Plaintiff so as to equal the scales of Justice.

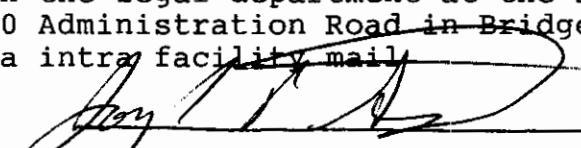
Dated: October 16, 2006

Respectfully Submitted,


Joseph P. Schmitt, pro se
Nemansket Correctional Facility
30 Administration Road
Bridgewater, MA. 02324-3230

CERTIFICATE OF SERVICE

I, Joseph P. Schmitt, hereby certify that a true copy of the above motion was served upon the legal department at the Nemansket Correctional Facility at 30 Administration Road in Bridgewater on or about October 16, 2006 via intra facility mail.


Joseph P. Schmitt, pro se